

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI

CHARLES POOLE,)	
)	
Plaintiff,)	
)	Case No. 14-CV-00782
v.)	
)	
EOS CCA,)	
)	
Defendant.)	

**DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION FOR LEAVE TO FILE AN
AMENDED COMPLAINT**

COMES NOW, Defendant EOS CCA¹ (“CCA”), and files its Response to Plaintiff’s Motion for Leave to File an Amended Complaint, and states as follows:

Plaintiff has filed a Motion seeking Leave to file an Amended Complaint, however his Motion does not actually request leave to amend nor provide any reasons to amend. Dkt. No. 7. Rather, his “motion” is simply his Amended Complaint.

Because Plaintiff has not put forward any request or reasons to amend, there is nothing CCA can respond to. However, Plaintiff’s request is premature. Currently CCA’s Motion to Set Aside the Default Judgment is pending in this Court. Assuming the Court grants CCA’s Motion, placing the parties back at the beginning of the lawsuit, then it would be appropriate for Plaintiff to seek to amend his Complaint, if he so desires.

CCA recognizes that, pursuant to FED. R. CIV. P. 15(a)(2), leave to amend a complaint is generally freely given. If this Court sets aside the default judgment, CCA will not object to Plaintiff’s request to amend his Complaint at that time. If Plaintiff’s request for leave to amend his Complaint will be granted, CCA suggests that Plaintiff be allowed to file his Amended Complaint prior to CCA being ordered to file an Answer to Plaintiff’s original Complaint,

¹ Defendant’s true name is Collecto, Inc. d/b/a EOS CCA.

allowing the parties to move forward on whichever Complaint Plaintiff seeks to have heard by this Court.

WHEREFORE, CCA respectfully requests that this Court not consider Plaintiff's request to file an amended Complaint until after ruling on CCA's Motion to Set Aside the Default Judgment, grant CCA ten (10) days from the date of Plaintiff filing his Amended Complaint to file an Answer or other responsive pleading, and for such other relief as this Court deems just and appropriate.

Respectfully submitted,

BERMAN & RABIN, P.A.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was mailed this 13th day of November, 2014, first class postage prepaid to:

Charles Poole
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Plaintiff pro se

/s/ Rachel B. Ommerman
Attorney for Defendant